

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT
for the District of Arizona

United States of America
v.

Baldemar LOPEZ-Mendez
USC

Defendant(s)

Case No.

23-3346 MJ

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about July 20, 2023, in Maricopa County, in the District of Arizona, Baldemar LOPEZ-Mendez, knowing and in reckless disregard of the fact that certain aliens, had come to, entered, and remained in the United States in violation of law, did knowingly transport and move said aliens within the United States by means of transportation or otherwise, in furtherance of such violation of law.

In violation of Title 8, United States Code, Sections 1324(a)(1)(A)(ii) and (a)(1)(B)(ii).

This criminal complaint is based on these facts:

See attached Statement of Probable Cause, incorporated by reference herein.

☒ Continued on the attached sheet.

Joseph K. Nwoga

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Nwoga
Date: 2023.07.21 12:59:19 -07'00'

Reviewed by AUSA Joseph Nwoga for AUSA John Ballos

BRIAN D
BITTER

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BITTER
Date: 2023.07.21 12:53:15
-07'00'

Complainant's signature

Brian Bitter, Border Patrol Agent-Intelligence

Printed name and title

Sworn to before me and subscribed telephonically.

Date: July 21, 2023

Judge's signature

City and state: Phoenix, Arizona

Honorable Michael T. Morrissey, U.S. Magistrate Judge
Printed name and title

EXHIBIT 3

STATEMENT OF PROBABLE CAUSE

I, Brian Bitter, Border Patrol Agent-Intelligence of the United States Border Patrol, being duly sworn, declare and state as follows:

INTRODUCTION AND BACKGROUND OF AFFIANT

1. I am a Border Patrol Agent (BPA) with the United States Border Patrol (USBP) and have been since July 2011. In December 2011, I completed a 13-week training program held at the USBP Training Academy in Artesia, New Mexico, to be certified as a Border Patrol Agent. Over the last 11 years, I have received further training in the detection, interdiction, and arrest of narcotics smugglers, alien smugglers, and aliens illegally present in the United States. I am currently assigned to the Tucson Sector Intelligence Unit at the Ajo Border Patrol Station in Why, Arizona. While performing my duties as a BPA-Intelligence assigned to the Tucson Sector Intelligence Unit, I regularly gather and organize facts material to a crime, analyze information pertaining to criminal organizations and activities, and take sworn statements from material witnesses and suspects. I am familiar with methods of operation used by criminal smugglers, including the importation, distribution and transportation of illegal drugs, the concealment and transportation of undocumented non-citizens, and the collection of money. I am also familiar with various counter-surveillance and communication methods utilized by narcotics and alien smugglers.

2. In preparing this Affidavit, I conferred with other law enforcement officials, who share the opinions and conclusions stated herein. I have personal knowledge of the following facts or have learned them from other law enforcement officers. I also relied on my training, experience, and background in law enforcement to evaluate this information. Since this Affidavit is being submitted for the limited purpose of establishing probable cause for a complaint, I have not included each and every fact or source of information establishing the violation of federal law.

PROBABLE CAUSE

3. On July 20, 2023, Acting Supervisory Border Patrol Agent (A-SBPA) Frank Magana was assigned to the immigration checkpoint on State Route 85 (SR-85). At approximately 2:20 PM local time a Buckeye camera that is in Zone 5 of the Ajo Border Patrol Station's Area of Operations was activated for approximately three suspected Undocumented Non-Citizens (UNCs) illegally entering the United States just West of the Lukeville, Arizona Port of Entry.

4. The Ajo Border Patrol Station Tactical Operations Center notified the SR-85 checkpoint and relayed the Buckeye pictures. A-SBPA Magana was able to observe from the pictures, what appeared to be a female with long black hair, wearing a black shirt and blue jeans during the illegal entry into the United States. While A-SBPA Magana was performing primary immigration inspections at the SR-85 checkpoint, a black 2004 BMW bearing Arizona (AZ) license plate 5LA4AL arrived at the checkpoint. As the vehicle came to a stop, A-SBPA Magana began his immigration inspection and asked the driver (later identified as Baldemar LOPEZ-Mendez), if he could roll down the rear windows because the heavy window tint was obscuring his view into the car. LOPEZ rolled down the window approximately four inches and stated the window doesn't roll down. When A-SBPA Magana looked inside the back passenger compartment he noticed one of the subjects had a hoodie on, which A-SBPA Magana found to be suspicious because it was extremely hot, with temperatures exceeding 110 degrees.

5. All the subjects in the rear passenger compartment of the BMW were sweating profusely, and A-SBPA Magana observed the fact that none of the subjects acknowledged his presence or attempted to make eye contact. In his experience with human smuggling events UNC's will often avoid eye contact and ignore the presence of law enforcement as to not draw attention themselves. A-SBPA Magana asked LOPEZ where he was coming from and he stated Sonoyta, Sonora, Mexico. While A-SBPA Magana was speaking with LOPEZ, he noticed LOPEZ was fidgeting inside the vehicle, LOPEZ was unable to maintain eye contact, was moving around in the driver's seat, and kept putting his hands on the steering wheel then back to his lap. A-SBPA Magana stated that LOPEZ was answering his answers very quickly which A-SBPA Magana found to be suspicious due to the fact no other drivers had displayed these characteristics while he was primary immigration agent. In A-SBPA Magana's experience with human smuggling events, drivers are extremely uncomfortable in the presence of law enforcement. They will often try to speed up the interaction in hopes to be let go quickly.

6. While A-SBPA Magana was talking to LOPEZ, A-SBPA Magana noticed the female passenger in the front seat was wearing similar clothing to the female from the Buckeye camera. The female was also avoiding eye contact with A-SBPA Magana and was ignoring his presence. A-SBPA Magana asked for LOPEZ's driver's license and LOPEZ presented an AZ identification card. At that time, A-SBPA Magana decided to send LOPEZ to secondary inspection to further investigate and perform an in-depth immigration inspection on all passengers of the vehicle. A-SBPA Magana asked LOPEZ to park his vehicle in the secondary inspection area, LOPEZ immediately began to look

around in what appeared to be an attempt to locate other Border Patrol Agents at the checkpoint. LOPEZ at the same time put the vehicle in drive and accelerated at a high rate of speed nearly striking a Border Patrol Agent service canine. A-SBPA Magana and BPA Ochs ran to their marked service vehicles and began to pursue the BMW.

7. A-SBPA Magana notified the Ajo Station's Tactical Operation Center (TOC) that the BMW fled from the checkpoint, and they were in pursuit of the vehicle. BPA Ochs and A-SBPA Magana caught up to the vehicle near mile marker 16 on SR-85 where LOPEZ began to slow down. At that time they observed approximately four subjects exit the BMW and attempt to abscond into the desert near mile marker 15. A-SBPA Magana instructed BPA Ochs to pursue the subjects on foot and that A-SBPA Magana would pursue the BMW that left the scene at a high rate of speed. A-SBPA Magana notified Tucson Sector Radio (KAK860) that the BMW failed to yield to his emergency equipment. At mile marker three on SR-85 A-SBPA Magana terminated the pursuit and all emergency equipment and slowed down to the posted speed limit. A-SBPA Magana informed the Ajo TOC that he was going to check the immediate area in the town of Gila Bend approximately three miles north of his location to ensure the BMW had not crashed. A-SBPA Magana drove into the town of Gila Bend and saw no accidents at which time he turned around to assist with the bail out back near mile marker 15 on SR-85.

8. At approximately 3:15 PM local time, SBPA Johnson advised via service radio that Maricopa County Sheriff's Office (MCSO) was on scene of a vehicle accident involving a BMW near mile marker 120 on SR-85. A-SBPA Magana turned around to head to the scene of the vehicle accident. When he arrived on scene two MSCO deputies were

on scene and the BMW was heavily damaged with the front driver's door and truck open. A-SBPA Magana asked the deputies if any one was hurt, and they stated no. A-SBPA asked about the location of the driver and the MCSO deputies informed him that the driver had absconded into the desert. Deputies reported the driver was wearing a black baseball cap and black t-shirt. Deputies further stated that the BMW had struck another vehicle in the town of Gila Bend. A-SBPA Magana spoke with the driver of the other vehicle to ensure she did not require medical attention at that time. Agents attempted to locate LOPEZ in the desert but were unable to apprehend him due to the rough terrain for tracking footprints.

9. The Ajo TOC notified A-SBPA that the four subjects who had fled from the vehicle were apprehended and determined to be illegally present in the United States without the proper documentation to enter, passthrough or remain in the United States.

10. That same evening Border Patrol Agents assigned to the Tucson Sector Intelligence Unit researched law enforcement databases for further information regarding the driver LOPEZ. It was revealed that LOPEZ had crossed through the Lukeville, Arizona Port of Entry at 2:22 PM local time. Further research was performed, and it was shown that LOPEZ was the driver of the 2004 BMW with a suspended registration. The registration information of the BMW shows an address for LOPEZ on North 61st Avenue Glendale, Arizona.

11. Research of law enforcement databases shows LOPEZ has an arrest from July 30, 2019, where he was charged with 8 U.S.C. Section 1324. LOPEZ was booked and released on that charge.

12. Based on the facts and circumstances stated in this Affidavit, I submit there is probable cause to believe that the defendant, Baldemar LOPEZ-Mendez, knowing or in reckless disregard of the fact that certain aliens, namely: PANIAGUA-Hernandez, Amparo and SANTIZ-Gomez, Jonas, had come to, entered, or remained in the United States in violation of law, did knowingly transport or move said alien within the United States by means of transportation or otherwise, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(ii) and (a)(1)(B)(ii).

BRIAN D BITTER

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BITTER
Date: 2023.07.21 12:54:00 -07'00'

Brian Bitter
Border Patrol Agent-Intelligence
United States Border Patrol

Sworn to before me and subscribed telephonically on 21st day of July, 2023.

M Morrissey

HONORABLE JUDGE MICHAEL T. MORRISSEY
United States Magistrate Judge